IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

WP(C).No. 26732 of 2006(G)

PETITIONER:

MAHAMOOD.P., S/O.UMMER KUTTY,
PATTUVAYALI HOUSE, VADAKARA POST,
KOZHIKODE DISTRICT.

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED
BY THE SECRETARY, DEPARTMENT OF CORPORATION,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE
SOCIETIES, THIRUVANANTHAPURAM.

3. THE GENERAL MANAGER,
THE VADAKARA CO-OPERATIVE URBAN BANK LTD.,
VADAKARA, KOZHIKODE DISTRICT.

BY ADV. SRI.DEVAPRASANTH.P.J. (R3)
BY SENIOR GOVT. PLEADER SRI.P.N.SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) 26732/2006

APPENDIX

EXT.P1 THE TRUE COPY OF THE DOCUMENT DATED 18.3.1993.

EXT.P2 THE TRUE COPY OF THE NOTICE PUBLISHED IN MATHRUBHUMI DAILY DATED 9.3.2006

EXT.P3 THE TRUE COPY OF THE ADVOCATE NOTICE DATED 14.6.2006.

EXT.P4 THE TRUE COPY OF THE POSSESSION NOTICE DATED 30/09/2006.

EXT.P5 THE TRUE COPY OF THE REPRESENTATION DATED 3.10.2006.

//TRUE COPY//

P.S. to Judge.

J.M. JAMES, J.

W.P.(C) No.26732 of 2006

Dated this the 21st November, 2006.

J U D G M E N T

Owing to the non payment of Rs.5,02,581/=, a demand notice was made to the petitioner directing him to pay the said amount, within 60 days from 19.7.2005. The writ petitioner did not pay the amount. Therefore, the 3rd respondent under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, in short 'the Act', and Rule 9 of Security Interest (Enforcement) Rules, 2002, in short 'the Rules', have took possession of the property finding that an amount of Rs.5,32,801/= was due to the 3rd respondent, Bank, on 30.9.2006, the date of issuing of the notice of taking possession of the property extending to 24.97 cents, comprised in Survey No.70/9 (Re-survey No.223/7) at Vatakara amsom desom, within the Sub District Vatakara, Kozhikode. The prayer of the writ petitioner is that he is prepared to pay the entire amount, availing the one time settlement facility, that the Co-operative Societies are extending to the debtors.

2. Counsel appearing for the 3rd respondent, however, submits that Circular No.27/2006 dated 29.6.2006 is not applicable to the 3rd respondent, as it is coming directly under the working control of the Reserve Bank of India.

3. In the above circumstances, I dispose of this writ petition, directing the petitioner to approach the 3rd respondent, Bank, and the latter shall hear the writ petitioner, who may raise all contentions, including the amount due from him, before the 3rd respondent. Thus, after hearing the writ petitioner, the 3rd respondent shall extend him all facilities of one time settlement, as per the Act and Rules, as well as the guidelines that may be issued by the authorities concerned.

4. Ext.P5 representation which is pending before the 3rd respondent shall be disposed of, within 10 days from the date of production of a copy of this judgment.

J.M. JAMES,
JUDGE

nj.